Tragedy of the Commons" Part II

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The Poverty of Right-Libertarian Cliches

Right-libertarians, it seems, have a love affair with Garrett Hardin and his so-called "tragedy of the commons." It's a principle to which they return, time and again. But as a foundation, it is historically illiterate; and the structure which they erect upon it is conceptually incoherent. Take, for example, Saul Zimet's piece "The Poverty of Slavoj Žižek's Collectivist Vision of Property Rights," at The Freeman.

Zimet doesn't limit his poorly reasoned talking points to the commons. He also throws in an obiter dictum at the outset, denying "that the resources being called 'the commons' already existed before they were 'monopolized' by tech entrepreneurs," and asserting instead that "the likes of Gates and Bezos have primarily earned their wealth not by monopolizing resources that already existed, but by facilitating the creation of new technologies that have generally made the rest of the world much wealthier rather than poorer."

This is nonsense. Zimet ignores the fact that Gates and Bezos are only needed to "facilitate" the creation of new technologies because of the enclosure of the credit commons. Because of a legal structure which limits the credit function — which properly conceived requires only a unit of account to coordinate the production streams between different groups of workers — to the possessors of previously accumulated stocks of wealth, Gates and Bezos have an artificial property claim on the right to coordinate those flows.

With this out of the way, we can pass on to the meat of the argument, such as it is. The rest of Zimet's commentary being such a rambling hodgepodge of tangentially related talking points and ahistorical assertions, I will simply address them in the order presented.

Zimet points to a "theoretical flaw" in "the idea of broadly collectivized property [Žižek] calls 'our commons.'"

This idea of collective ownership is often advocated by collectivists of many stripes, from socialist, to communist, to fascist, to justify confiscating the earnings of peaceful wealth producers. So it is important to understand the fundamental distinction between individual and collective ownership, and how the former facilitates

widespread prosperity while the latter reliably spreads poverty and desperation to the masses.

But his own theoretical flaw lies in framing the Lockean labor theory of property as an "individualist labor theory of property" (emphasis mine).

> [Locke's] core idea has remained the central principle of the free market: in order to justly acquire something, one must produce it from previously uncultivated materials, or else receive it in a voluntary transaction or donation from someone who justly acquired it themselves.…
>
> Any divergence from this free-market conception of property rights, such as those divergences typical of socialism, communism, corporatism, feudalism, and fascism, must necessarily take the form of someone at some point being allowed to expropriate the product of someone else's labor against their will.

First of all, Zimet ignores the fact that the historic commons of premodern Europe, similar arrangements like the Mir in Russia, or examples of Marx's so-called "Asiatic mode" like that prevailing in India before Hastings' Permanent Settlement, were not some free-for-all of unowned resources. They were the rightful common possession of the villagers who worked them, based on the collective labor of their ancestors who had cooperatively broken the ground for cultivation at the time of settlement.

And second, it was actually Zimet's individual private property in land that was established by enclosers expropriating the product of peasants' collective labor against their will.

The idea that land titles of the modern capitalist type — i.e., land as a fee-simple commodity — can be traced to individual "labor-homesteading" of land that was previously "unclaimed," is an ahistorical myth. Its primary function is to conceal the fact that the overwhelming majority of society was robbed of its legitimate rights in the land by a tiny minority of expropriators.

Zimet refers to such individual private property as "free market property rights." But in fact there is no one self-evident model of "free market" property in land. Even if we stipulate to the admixture of labor in the land, whether individually or collectively, as establishing ownership rights of some nature — which admittedly has some reason to it, from the standpoint of maximizing people's right to their own labor-product — land and natural resources present unique problems.

Locke himself admitted that, unlike moveable and reproducible goods created by human labor which could be treated as the absolute possession of their creators, humanity retained at least some residual common claim to the land by virtue of its fixed supply. He felt it necessary to address this special status through the so-called Proviso (that appropriators must leave “enough and as good”).

There is no model of property in land which is entirely satisfactory, in both maximizing individual rights to the labor sunk in the land, and at the same time addressing the fact that the land is a good in fixed supply and immobile from which labor once mixed cannot be picked up and carried off. There has been a wide range of libertarian approaches aimed at finding the least unsatisfactory tradeoff between these two values. I would argue that Simet’s no-Proviso Lockeanism is the worst of them; but even it treats land as a unique good to the extent that it regards simply fencing off vacant land and holding it out of use as no basis for a legitimate title, if the land is not actually developed. And even capitalist property law has at least some threshold for constructive abandonment. If we lower this threshold sufficiency, we wind up with the occupancy-and-use criteria for land title advocated by J. K. Ingalls, and Benjamin Tucker and the other Boston anarchists. Henry George and his followers attempted to separate the individual right to one’s labor in buildings and improvements from the common right to the land itself, by taxing only the unimproved site value. The community land trust attempts the same distinction by restoring the land itself as common property while retaining markets in buildings and improvements.

Zimet also frames Chinese “free market reforms” as a partial retreat from the evils of forcible collectivization by “recognizing” private property rights. This enabled “escaping extreme property” by a billion people. But his framing ignores the fact that the forced collectivization of the Great Leap Forward and the Dengist privatization policy were both violent assaults on villagers’ communal rights to the land. Naomi Klein, in No Logo, quotes Chinese sweatshop workers’ laments that, had their families not been robbed of common rights which were transferred to capitalist farmers or industrial parks, they would greatly prefer working on the land.

Before we finish, we can’t let this howler pass:

> One of the sectors that still conforms to free-market principles more closely than almost any other is the tech industry in which Gates and Bezos have amassed their fortunes.

> They earned their wealth largely by coming up with ideas for new technologies and business models that created opportunities and products where none previously existed. Their startup capital came partly from investment of their own hard-earned

wages, and partly from others who invested in them by choice. They hired voluntary employees to build the products and operate the businesses on contractual terms that nobody was forced to accept. And when the products were built, they were sold to willing customers in mutually beneficial transactions.

That's right — the tech sector, whose profit model depends even more than the rest of the corporate economy on state-enforced intellectual property monopolies, "conforms to free-market principles more closely than almost any other." Never mind the enormously intrusive (not to say totalitarian) anti-circumvention provisions of the Digital Millennium Copyright Act, the constant arbitrary DMCA takedowns on YouTube, or the administrative mass seizures of domain names by the Justice Department, all based on the claim to "own" the rights to control who can replicate a string of information. Never mind the felony contempt of business model laws that Amazon's monopoly position depends on. Didn't happen.

And it was other people who "came up with" those "ideas for new technologies." It was only the enclosure of the credit function, mentioned above, which enabled them to also enclose the ideas of others for their own profit. Don't forget, by the way, that Bill Gates — who has dismissed free and open-source software as "communist" — got his start digging other people's code out of the trash.

As for Gates' and Bezos' "own hard-earned wages" — I'm not even gonna touch that one.

Zimet comes down hard on the "voluntary," "by choice," "willing," and "nobody forced them" thing, doesn't he? That failure to ignore background violence or power relations, and to frame any transaction as "voluntary" in which there is no gun immediately present, is typical of right-libertarian ideology. In fact, the capitalists and their state have put a huge amount of work into creating a state of affairs where people "voluntarily" accept the shitty deals offered to them. People will always "voluntarily" accept the "least bad option"; the proper question to ask is, who determined the range of available options? The existing range of options reflects the foundational and ongoing state violence entailed in the capitalist system, including — among many other things — the enclosures of land, credit, and information mentioned above. As Marx might have put it, the history of their range of available options is written in letters of blood and fire.

Right-libertarian polemics are all about framing as "voluntary" a system which is based, to its very core, on coercive power relations and the ongoing threat of violence. Fortunately, they usually fail to persuade anyone who isn't already in the choir — down-punching authoritarians who are instinctively in sympathy with the bosses and owners. And even more so than most, Zimet's boot polish-infused prose is likely to

evoke a response of “Yeah, them poor ol bosses need all the help they can get.”